

# Information for Guaranty Agencies on Improper Loan Servicing and Collection Appeals

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This section is divided into two parts. The first part (pages 377 through 388) outlines the process and procedures for responding to a request for loan servicing records. The second part (pages 389 through 394) provides an example of a situation that would result in a guaranty agency responding to a request for loan servicing records and sample material as it pertains to a guaranty agency's involvement in the improper loan servicing and collection appeal process.

To understand how a guaranty agency should respond to requests for loan servicing records, the U.S. Department of Education (Department) recommends that the reader review both parts of this section. In addition, to understand the basis for an improper loan servicing and collection appeal and a school's responsibilities in the improper loan servicing and collection appeal process, the Department recommends that the reader review the "Improper Loan Servicing and Collection Appeal" section beginning on page 185.

**Q.** Who is responsible for responding to requests for information on loans currently held by the Department?

**A.** The Department's **Default Management Division** will respond to a school's requests for information regarding **FFEL Program loans currently held by the Department**.

The **Department's Direct Loan servicer** will respond to a school's requests for information regarding **Direct Loan Program loans**.

# PART I: Background, Process, and Procedures

## What are the time frames and procedures for responding to a request for loan servicing records?



Time frames may overlap. Read ALL steps.

**Step 1:** Within **15 working days** (or **30 calendar days** if the guaranty agency does NOT charge for loan servicing records AND the school is NOT subject to the loss of Federal Family Education Loan (FFEL) Program, William D. Ford Federal Direct Loan (Direct Loan) Program, and/or Federal Pell Grant Program eligibility) of receiving the school's request for loan servicing records, a guaranty agency should review this Guide to determine if the school's request is timely and if the school is eligible to request loan servicing records.

The eligibility and time frame requirements associated with a school's request for loan servicing records are outlined in the "Improper Loan Servicing and Collection Appeal" section beginning on pages 191 and 200, respectively.

**Step 2:** **Within the time frames described in Step 1** [i.e., within 15 working days (or 30 calendar days if the guaranty agency does NOT charge for loan servicing records AND the school is NOT subject to the loss of FFEL Program, Direct Loan Program and/or Federal Pell Grant Program eligibility) of receiving the school's request for loan servicing records], a guaranty agency should notify the school and the Department if the request for loan servicing records is untimely or the school is ineligible to make such a request.

The following are some reasons why a school's request for loan servicing records would be considered untimely or ineligible and the actions that the guaranty agency should take.

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If the school did not send its request for loan servicing records within **10 working days** of the school receiving its official cohort default rate notification letter, the guaranty agency must NOT provide the requested records. In its response to the school, the guaranty agency must explain that it is unable to send any loan servicing records because the school missed the regulatory deadline.<sup>1</sup>

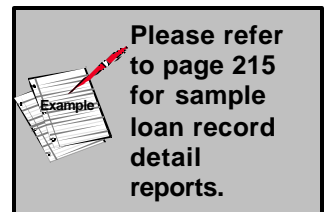
**Note**

The Department mails official cohort default rates at an announced time and tracks the schools' receipt of the rates. Before denying a school's request for loan servicing records on the basis of a late submission, a guaranty agency should contact the Department to verify the actual date the school received its official cohort default rate.

If the school's submission date falls on a weekend or a federal holiday, a school may send its request for loan servicing records to the guaranty agency no later than the next federal business day.

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If a **school fails to provide the guaranty agency with the applicable official loan record detail report(s)** as identified in the "Improper Loan Servicing and Collection Appeal" section beginning on page 202, the guaranty agency should write to the school requesting that the official loan record detail report(s) be provided. If the school does NOT provide the applicable loan record detail report(s) within 10 working days of receiving its official cohort default rate, the guaranty agency should explain to the school that it cannot respond to the school's request because it failed to meet the regulatory requirements.



<sup>1</sup> 34 CFR Section 668.17(h)(3)(ii)

**Q.** How can a guaranty agency find out which sanction(s) a school is subject to?

**A.** When the Department releases the official cohort default rates, it will send each guaranty agency a press package, which contains a listing of those schools that are subject to sanctions as a result of the official cohort default rates. The press package can also be obtained by visiting the Department's website at <http://www.ifap.ed.gov>.

- If a school submits a request for loan servicing records and **the school's most recent official cohort default rate is 19.9 percent or lower**, the guaranty agency must NOT provide the requested records. In its response to the school, the guaranty agency should explain that it is unable to send the records because only schools that have an official cohort default rate equal to or greater than 20.0 percent may appeal on the basis of improper loan servicing and collection.<sup>2</sup>
- If a school that is **NOT subject to initial loss** of FFEL Program, Direct Loan Program, and/or Federal Pell Grant Program eligibility requests loan servicing records for any of its three most recent official cohort default rates, the guaranty agency must **ONLY** provide the loan servicing records for the school's most recent cohort default rate (in this case FY 1998), provided that the official cohort default rate is 20.0 percent or greater. In its response to the school, the guaranty agency should explain that it can only send the loan servicing records associated with the most recent cohort default rate because the school is not eligible to request loan servicing records for any other cohort default rates
- If a school **requests specific loan servicing records**, the guaranty agency should notify the school that the agency is required to provide a **representative sample** of loan servicing records, which may or may not include the specific records requested by the school. The guaranty agency may, at the time it requests payment for the records, notify the school that specific records cannot be requested or, if the guaranty agency does not require payment for the records, it may notify the school at the time the actual loan servicing records are provided.

<sup>2</sup> 34 CFR Section 668.17(h)(1)

**Step 3:**      **Within the time frames provided in Step 1** [i.e. 15 working days (or 30 calendar days if the guaranty agency does NOT charge for loan servicing records AND the school is NOT subject to the loss of FFEL Program, Direct Loan Program, and/or Federal Pell Grant Program eligibility) of receiving the school's request for loan servicing records], a guaranty agency must identify a representative sample of defaulted loans included in the cohort default rate being challenged by the school.

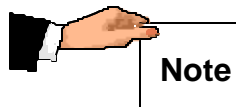
To determine the **representative sample** of defaulted loans, a guaranty agency must identify, from the official loan record detail report provided by the school, **all** of a school's **defaulted** borrowers included in the relevant cohort default rate who have loans currently guaranteed by the agency.

If a guaranty agency identifies:

- **0 borrowers**, the guaranty agency must send a letter to the school informing the school that there were no defaulted loans in the school's official cohort default rate which are currently guaranteed by the agency;
- **99 or fewer borrowers**, the guaranty agency is required to send the loan servicing records associated with **ALL** of the borrowers' **defaulted loans** that are included in the school's official cohort default rate and currently guaranteed by the agency;

OR

- **100 or more borrowers**, the guaranty agency may choose to identify a **representative sample**, such that the universe estimate derived from the sample is acceptable at a 95 percent confidence level with a plus or minus 5 percent confidence interval.<sup>3</sup> **The representative sample must be based on the defaulted borrowers** included in the official cohort default rate. Once the representative sample of defaulted borrowers is identified, the guaranty agency should provide the servicing records for each defaulted loan in the official cohort default rate that is associated with a borrower included in the sample.



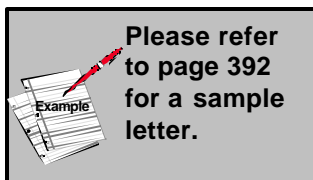
The Department has provided guidance to guaranty agencies on how to determine a representative sample. Guaranty agencies should refer to the Dear Guaranty Agency Director letter dated June, 1994 for information on determining appropriate sample sizes. A copy of the Dear Guaranty Agency Director letter can be obtained by contacting the Default Management Division at (202) 708-9396.

**Step 4:** Within **15 working days** of receiving the school's request for loan servicing records, a guaranty agency that chooses to charge for loan servicing records must provide the following to the school:

- a **request for payment** for the loan servicing records included in the representative sample;

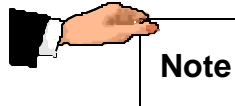
A guaranty agency should refer to the Sample Request for Payment for Loan Servicing Records LETTER on page 392) to assist in developing the letter.

- the **total number** of defaulted borrowers and loans **included in the school's official cohort default rate** for which the guaranty agency currently maintains the guaranty;



<sup>3</sup> 34 CFR Section 668.17(h)(3)(ii)(B)(2) and 668.17(h)(3)(iii)(B)(2)

- the **total number** of borrowers and loans **included in the representative sample** of loans identified by the guaranty agency ;;
- AND
- a **list of the borrowers and the number of defaulted loans** for each borrower included in the representative sample;



A guaranty agency may charge a reasonable fee for copying and providing the documents not to exceed \$10.00 per borrower file.<sup>4</sup>

If the guaranty agency does NOT charge for loan servicing records, it should proceed to Step 7 on page 384.

**Step 5:** Within **15 working days** of receiving the school's request for loan servicing records, a guaranty agency should send the following to the Department:

- a copy of the request for payment;
- AND
- a copy of the list of borrowers included in the representative sample.

**Step 6:** Notify the school and the Department if the payment for loan servicing records is untimely or incomplete.

- If the school does not send its payment for loan servicing records to the guaranty agency within **15 working days** of the school receiving the guaranty agency's request for payment, the guaranty agency must NOT provide the records to the school. In a letter to the school, the guaranty agency must explain that it is unable to provide any loan servicing records because the school failed to submit the payment within the required time frame.<sup>5</sup>

<sup>4</sup> 34 CFR Section 668.17(h)(3)(ii)(B)(4) and 668.17(h)(3)(iii)(B)(4)

<sup>5</sup> Id.

**Note**

If the school's submission date falls on a weekend or a federal holiday, a school may send its payment for the loan servicing records to the guaranty agency no later than the next federal business day.

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If a school submits a timely payment for the loan servicing records but the **payment is not sufficient**, the guaranty agency must NOT provide the records to the school. In a letter to the school, the guaranty agency should explain that it is unable to provide any loan servicing records because the school failed to submit full payment for the records.

**Step 7:**

Provide the representative sample of the loan servicing records to the school within the applicable time frame.

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If the guaranty agency requested payment for the loan servicing records, the guaranty agency must provide the loan servicing records to the school within **15 working days** of the receipt of the school's timely submitted payment.

••

If the guaranty agency did not request payment for the loan servicing records BUT the school is subject to the loss of FFEL Program, Direct Loan Program, and/or Federal Pell Grant Program eligibility, the guaranty agency must provide the loan servicing records to the school within **15 working days** of the receipt of the school's request for records.

OR

••

If the guaranty agency did not request payment for the loan servicing records and the school is NOT subject to the loss of FFEL Program, Direct Loan Program, and/or Federal Pell Grant Program eligibility, the guaranty agency must provide the loan servicing records to the school within **30 calendar days** of the receipt of the school's request for records.

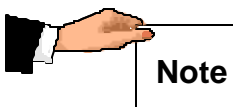




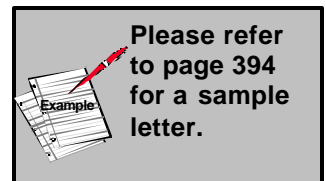
A guaranty agency must provide copies of the loan servicing records for **all defaulted loans** included in the cohort default rate calculation for **each borrower** included in the sample.

Within the time frames described on the previous page, a guaranty agency should send the following to the school:

- a **letter** indicating that the agency is providing a copy of the relevant loan servicing records to the school;  
  
A guaranty agency should refer to the Sample Loan Servicing Records Response LETTER on page 394 to assist in developing the letter.
- the **total number** of defaulted borrowers and loans **included in the school's official cohort default** rate for which the guaranty agency currently maintains the guaranty;
- the **total number** of borrowers and loans **included in the representative sample** identified by the guaranty agency;
- a **list of the borrowers** and the **number of defaulted loans** for each borrower for which the guaranty agency is providing a loan servicing records;
- AND
- a **copy of the loan servicing records** for each defaulted loan included in the representative sample.



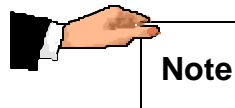
A guaranty agency can assist schools in reading the collection history by identifying relevant collection activities for each loan, as identified in 34 CFR Section 668.17(h)(3)(viii). This may be done by highlighting the collection activities in the actual collection records provided to the school or by creating a summary sheet outlining the abbreviation/ codes associated with specific collection activities.



Please refer to the next page for an overview of the MATERIAL that should be included in a guaranty agency's response to a request for loan servicing records.

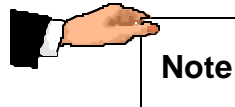
**Step 8:** Within the applicable time frame noted in Step 7, a guaranty agency should send the following to the Department:

- a copy of the letter sent to the school;
- AND
- a copy of the list of borrowers sent to the school.



A guaranty agency does NOT need to send a copy of the loan servicing records to the Department.

**Step 9:** Respond to any **subsequent inquiries** from a school regarding missing or illegible loan servicing records within **5 working days** of receipt of the school's timely submitted inquiry and immediately send a copy of the response letter to the Department.



Schools must submit subsequent inquiries within **5 working days** of receiving the agency's response to its initial inquiry.

**Q.** What is considered a "missing" or "illegible" loan servicing record?

**A.** A school may request additional documentation if the loan servicing records in question do not have the necessary material present to determine if the elements specified in 34 CFR Section 668.17(h)(3)(viii) were conducted. However, a loan servicing record is not considered missing or illegible if all the necessary elements noted in 34 CFR Section 668.17(h)(3)(viii) can be identified. Nor is a loan servicing record considered missing or illegible if collection history documents are present and legible.

Within the time frames described in Step 7 on page 384, the following MATERIAL should be sent to the school:

**The section behind Component 1 contains:**

**Component 1**

A LETTER on the guaranty agency's official letterhead with—

- the school's **OPE ID number**;
- the school's **name**;
- a statement indicating that the guaranty agency is responding to the school's **request for loan servicing records**;
- the **fiscal year** to which the request for loan servicing records applies;
- the **total number** of defaulted borrowers and loans **included in the school's official cohort default rate** for which the guaranty agency maintains the guaranty;
- the **total number** of borrowers and loans **included in the representative sample** of loan servicing records provided to the school;
- the **signature** of the guaranty agency official, followed by a signature block providing the signer's name and job title;
- AND
- an indication that a copy of the letter and list of borrowers was **sent to the Department**.

Guaranty agencies should use the Sample Loan Servicing Records Response LETTER on page 394.

**The section behind Component 2 contains:**

**Component 2**

A LIST of the borrowers and of each of the borrower's loans included in the representative sample. The list should include the borrower's:

- name;
- Social Security number;
- loan type(s) ;
- AND
- number of loan(s).



If a borrower has **multiple loans for which it maintains the guaranty**, a guaranty agency must provide the loan servicing records associated with each of the borrower's defaulted loans included in the school's cohort default rate calculation.

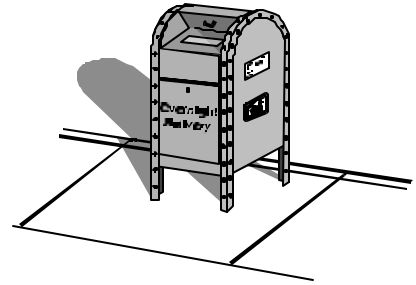
**The section behind Component 3 contains:**

**Component 3**

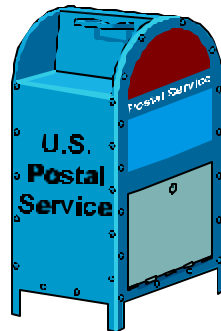
Copies of **ALL the loan servicing records** relating to loans included in the representative sample.

**If sent by commercial overnight mail/courier delivery,** send the Department's copy of the loan servicing records response to:

U.S. Department of Education  
Default Management Division  
ATTN: Guaranty Agency Response  
Portals Building, Room 6300  
1250 Maryland Avenue, SW  
Washington, DC 20024



**If sent by U.S. Postal Service,** send the Department's copy of the loan servicing records response to:



U.S. Department of Education  
Default Management Division  
ATTN: Guaranty Agency Response  
Portals Building, Room 6300  
400 Maryland Avenue, SW  
Washington, DC 20202-5353

## PART II: Examples and Sample Material

Part II of this section outlines a situation that would require a guaranty agency to respond to a school's request for loan servicing records. This part also includes sample material that should be referenced by a guaranty agency when responding to a school's request for loan servicing records.

### CONTENT REFERENCE FOR PART II

EXAMPLE of a Request for Payment for Loan Servicing Records .....	391
Sample Request for Payment for Loan Servicing Records LETTER .....	392
EXAMPLE of a Response to a Request for Loan Servicing Records .....	393
Sample Loan Servicing Records Response LETTER .....	394



**EXAMPLE** of a Request for Payment for Loan Servicing Records

State Guaranty Agency received Electrical School's request for loan servicing records on October 6, 2000.

**Within 15 working days** of receiving the request, the guaranty agency:

- determined whether the school's request was **timely** (please refer to Step 2 on page 202 for information on the time frames associated with a school's requests for loan servicing records);

According to the Department, the school received its official cohort default rate on September 30, 2000. According to the postmark on the service delivery package, the request was submitted to the agency on October 4, 2000. Because the request was submitted within 10 working days of the school's receipt of its official cohort default rate, the request was timely submitted.

- determined whether the school was **eligible** to request loan servicing records (please refer to page 191 for information on which schools are eligible to request loan servicing records);

According to the Department's web site that provides the official cohort default rates issued by the Department, Electrical School's FY 1998 official cohort default rate is 23.6 percent. Because the school's FY 1998 official cohort default rate is 20.0 percent or greater, the school is eligible to submit a request for loan servicing records for its FY 1998 cohort default rate.

- determined the size of the **representative sample** of loan servicing records that would be provided to the school;

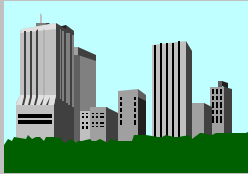
State Guaranty Agency reviewed the school's FY 1998 official loan record detail report and identified 156 borrowers who had 167 defaulted loans that were currently held by State Guaranty Agency (as identified by the guarantor/servicer code on the loan record detail report). State Guaranty Agency referred to the June 1994 Dear Guaranty Agency Director letter from the Department and determined that based on a total population of 156 defaulted borrowers the appropriate representative sample would consist of 119 borrowers. The State Guaranty Agency randomly selected 119 borrowers from the 156 defaulted borrowers included in the school's cohort default rate.

- created a **list** of the 119 borrowers and identified, for each borrower, the number of defaulted loans included in the cohort default rate calculation.

AND

- created a **request for payment** for the records identified in the representative sample (please refer to the Sample Request for Payment for Loan Servicing Records LETTER on page 392).

On October 20, 2000, State Guaranty Agency mailed the list and a request for payment for \$1,190.00, via overnight courier, to Electrical School and sent a copy of the letter and list to the Department's Default Management Division at the address on page 388.

Sample Request for Payment for Loan Servicing Records **LETTER****State Guaranty Agency**

1234 Trueman Road

Lusby, North Carolina 98765-4321

(111) 222-3333

October 20, 2000

**Sample Letter**

Thomas Pratt  
President  
Electrical School  
555 Wedgewood Lane  
Leonardtown, Wisconsin 12345-6789

**OPE ID#: 000010**

**Subject: FY 1998 Request for Payment for Loan Servicing  
Records**

Dear Mr. Pratt:

State Guaranty Agency has identified 156 borrowers with 167 defaulted loans that are guaranteed by our agency and included in Electrical School's, **OPE ID# 000010**, FY 1998 official cohort default rate. Based on a total population of 156 borrowers, the State Guaranty Agency has determined that the representative sample of loan servicing records will consist of 119 borrowers and 125 loans. Please see the enclosed list.

Prior to providing the loan servicing records associated with the 119 borrowers' loans, the State Guaranty Agency is requesting payment of \$1,190.00. This payment is due within 15 working days of your school's receipt of this request.

Please see the enclosed list and invoice.

Sincerely,  
Bob Bowen  
Bob Bowen, Compliance Officer  
State Guaranty Agency

Enclosures

cc: U.S. Department of Education, Default Management Division



**EXAMPLE** of a Response to a Request for Loan Servicing Records

State Guaranty Agency received Electrical School's check in the amount of \$1,190.00 on October 25, 2000.

**Within 15 working days** of receiving the school's payment, the guaranty agency:

- determined whether the school's payment was **timely** (please refer to Step 4 on page 205 for information on the time frames associated with making a payment for loan servicing records);

According to the information from the service delivery company used by the guaranty agency, the school received the agency's request for payment on October 21, 2000. Because the school submitted the payment within 15 working days of the school's receipt of the request for the payment, the payment was timely submitted.

- determined whether the payment was **sufficient**;

Electrical School submitted a check for the correct amount of \$1,190.00. Because the school's payment was sufficient and timely, the guaranty agency determined that the school was eligible to continue with the improper loan servicing and collection appeal process.

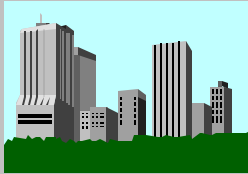
- made a **copy of the loan servicing records** for each defaulted loan included in the official cohort default rate that was associated with a borrower included in the representative sample;
- made a copy of the **list of borrowers** that was provided to the school with the request for payment;

AND

- created a **LETTER** to the school that responded to the school's request for loan servicing records (please refer to the Sample Loan Servicing Response LETTER on page 394).

On November 8, 2000, State Guaranty Agency mailed the letter, list of borrowers, and copies of the loan servicing records, via overnight courier, to Electrical School. At the same time, a copy of the letter and list of borrowers was sent to the Department's Default Management Division at the address on page 388.

Sample Loan Servicing Records Response **LETTER**



## State Guaranty Agency

1234 Trueman Road  
Lusby, North Carolina 98765-4321  
(111) 222-3333

### Sample Letter

November 18, 2000

Thomas Pratt  
President  
Electrical School  
5555 Wedgewood Lane  
Leonardtown, Wisconsin 12345-6789

**OPE ID#: 000010**

**Subject: FY 1998 Loan Servicing Records Response**

Dear Mr. Pratt:

This is State Guaranty Agency's response to Electrical School's **OPE ID# 000010**, FY 1998 request for loan servicing records.

State Guaranty Agency has identified 156 borrowers with 167 defaulted loans that are guaranteed by our agency and included in your school's FY 1998 official cohort default rate. Based on a total population of 156 borrowers, we have determined that the representative sample of loan servicing records provided to your school will consist of 119 borrowers and 125 loans.

Please see the enclosed list of borrowers and loans and a copy of the relevant loan servicing records.

Sincerely,

**Bob Bowen**

Bob Bowen, Compliance Officer  
State Guaranty Agency

Enclosures

cc: U.S. Department of Education, Default Management Division